

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:20-cv-00092-MR-WCM**

RUPA RUSSE, et al.,)
)
Plaintiffs,)
)
vs.) **ORDER**
)
UNITED STATES OF AMERICA,)
)
Defendant.)

THIS MATTER is before the Court on the Plaintiffs' "Motion in Limine to Strike Statement by Defendant Witness Kim Pierce" ("Motion to Strike") [Doc. 126].

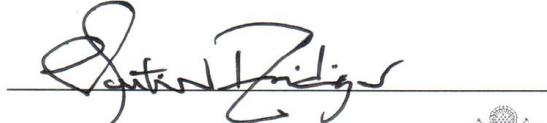
The Plaintiffs argue that the Declaration of Kim Pierce [Doc. 125-2] should be excluded pursuant to Federal Rules of Civil Procedure 37(a)(3) and 37(c)(1) as well as Federal Rules of Evidence 103, 801(c)(2), 803(6)(b), 803(7), and 806 because the Declaration constitutes hearsay that does not fall within a hearsay exception, the Declaration includes statements that are not supported by evidence, and Kim Pierce was not identified as an individual likely to have discoverable information in the Defendant's disclosures under Federal Rule of Civil Procedure 26(a)(1)(A)(i). [Doc. 126 at 1].

The Defendant filed the Pierce Declaration as an exhibit to its Reply in Support of its Motion for Summary Judgment. [Doc. 125]. In the Reply, the Defendant references the statements set forth in the Pierce Declaration only to rebut the Plaintiff's argument that the CGVAMC violated VA Directive 1143.2. [Id. at 10]. The Plaintiffs first raised the issue of VA Directive 1143.2 in their "Motion to Amend and Supplement their Complaint and Modify Scheduling Order Deadline" ("Second Motion to Amend"), which sought, in part, to supplement the Plaintiffs' claims with allegations that the CGVAMC violated VA Directive 1143.2. [Doc. 108 at 2]. Following the Defendant's Reply, the Magistrate Judge issued an Order denying the Plaintiffs' Second Motion to Amend on December 5, 2022, [Doc. 141], and this Court affirmed that Order on January 3, 2023, [Doc. 152]. Therefore, because the Plaintiffs' allegations that the CGVAMC violated VA Directive 1143.2 are not part of the Plaintiffs' claims, the Plaintiffs' Motion to Strike is denied as moot.

IT IS, THEREFORE, ORDERED that the Plaintiffs' "Motion in Limine to Strike Statement by Defendant Witness Kim Pierce" [Doc. 126] is **DENIED AS MOOT.**

Signed: February 27, 2023

IT IS SO ORDERED.



Martin Reidinger
Chief United States District Judge

